IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11364 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SAVABHAI ARJANBHAI MAKWANA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11364 of 2000

MR RD RAVAL for Petitioner No. 1

MR ND GOHIL, ASSTT.GOVERNMENT PLEADER for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 18/10/2004

ORAL JUDGEMENT

In this petition the petitioner has complained about not being granted the pay-scale of Rs. 2000-3500 with effect from 1987. It is the case of the petitioner that though he was entitled to receive the said pay-scale

pursuant to the Government Resolution dated 16.8.1994, the same has not been granted to him.

2. The respondents have filed an affidavit-in-reply pointing out that to avail of the benefit of Circular dated 16.8.1994, the Government servant had to give an option in terms of Clause 3(25) of the said Circular, since the Government servant could not have retained the selection grade granted to him and at the same time availed of benefit of higher pay-scale. In the affidavit-in-reply, it is pointed out that such an option was to be exercised latest by 31.1.1995, whereas the petitioner submitted his option only on 21.2.1995. This is the short ground for rejection of his request for being given the higher pay-scale. It is not in dispute that the Circular dated 16.8.1994 does prescribes a time limit of 3 months from the date of issuance of the Circular for exercising such an option.

3. The case of the petitioner, though not clearly brought out in the petition, is that at the relevant time there was confusion about in which Division the petitioner belonged i.e. whether in the Rajkot Division or Ahmedabad Division. It is submitted that on account of this confusion, the petitioner could not submit his option within the time and in any case, since the option is given shortly after the deadline was over, the same ought to have been taken in to consideration. The petitioner has detailed the reasons of delay in submitting his option in his representation dated 11.5.2000. In the affidavit-in-reply the State Government has stated that the representation of the petitioner is still under consideration. It is therefore, directed that the representation of the petitioner dated 11.5.2000 be disposed of expeditiously and the petitioner be communicated the decision thereof as far as possible within 3 months from the date of receipt of a copy of this order. It may be noted that the petitioner has since retired from Government service and the respondents shall therefore, not further delay consideration of his request.

4. It may also be noted that the only objection raised against the petitioner getting the higher pay-scale pursuant to the G.R dated 16.8.1994 is that he did not exercise his option within the time limit. It is hoped that if there is any power to relax the time limit, the respondents shall bear in mind the representation of the petitioner and consider his case sympathetically.

5 With these observations and directions the

petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

*/Mohandas